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DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-842, A-588-871, and A-455-804]

Grain-Oriented Electrical Steel from Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that grain-oriented electrical steel (GOES) from Germany, Japan, and Poland is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013. The final weighted-average dumping margins of sales at LTFV are listed below in the “Final Determinations” section of this notice.

DATES: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Stephen Banea at (202) 482-0656 (Germany); Steve Bezirgianian at (202) 482-1131 (Japan); or Alan Ray at (202) 482-5403 (Poland); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2014, the Department published the preliminary determinations of sales at LTFV of GOES from Germany, Japan, and Poland.¹ We invited, but did not receive, interested party comments on the preliminary determinations in these investigations.

In May and June 2014, the mandatory respondents in the investigations from Germany and Japan requested that the Department postpone the final determinations in those cases, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(e)(1). These companies also requested that the Department extend provisional measures from a four-month period to not more than six months, in accordance with section 733(d) of the Act and 19 CFR 351.210(e)(2). Subsequently, the petitioners and a domestic interested party² submitted letters jointly opposing these requests.³

Scope of the Investigations

The scope of the investigations covers GOES, which is a flat-rolled alloy steel product containing by weight specific levels of silicon, carbon, and aluminum. For a complete description of the scope of the investigations, see Appendix I to this notice.

¹ See Grain-Oriented Electrical Steel from Germany, Japan, Poland, and the Russian Federation: Preliminary Determinations of Sales at Less Than Fair Value, Certain Affirmative Preliminary Determinations of Critical Circumstances, and Postponement of Russian Final Determination, 79 FR 26941 (May 12, 2014) (Preliminary Determinations).

² The petitioners are AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers. The domestic interested party is the International Union, United Automobile, Aerospace, and Agricultural Implemental Workers of America (UAW). Collectively, these parties are referred to as “the domestic industry.”

³ For further discussion of this issue, see the “Requests to Postpone the Final Determinations for Germany and Japan” section of this notice.

Verification

The Department did not verify any of the mandatory respondents in these investigations because none of the mandatory respondents participated in the investigations prior to the issuance of the preliminary determinations.

Requests to Postpone the Final Determinations for Germany and Japan

On May 14 and May 19, 2014, respectively, the Department received requests to postpone the final determinations from the mandatory respondents in the Japan investigation (*i.e.*, Nippon Steel & Sumitomo Metal Corporation (NSSMC) and JFE Steel Corporation (JFE)) and the mandatory respondent in the German investigation (*i.e.*, ThyssenKrupp Electrical Steel GmbH (TKES)). On May 19, 2014, the domestic industry objected to all three requests, arguing that there are compelling reasons to deny them. Specifically, the domestic industry contends that postponements would be inappropriate in these cases because: (1) the mandatory respondents failed to participate in these investigations and, thus, there is nothing to be gained from these non-cooperative companies in terms of argument or additional factual information; (2) unlike past investigations in which the Department postponed final determinations, the petitioners and other members of the domestic industry objected to the postponements, thus providing a compelling reason not to extend; and (3) postponing the deadlines would require the Department to prepare multiple final determinations (*i.e.*, one for Poland in July and then two others for Germany and Japan in September).

On May 20 and 21, 2014, respectively, JFE and NSSMC responded to the objections of the domestic industry, stating that: (1) there is no requirement under the statute or the regulations that a respondent may request a postponement of the final only if it participated in the investigation; (2) the Department's workload would be essentially unaffected by a

postponement; and (3) the Department has recently postponed its final determinations under similar circumstances.⁴ TKES did not respond to the domestic industry's arguments.

On May 28, 2014, the domestic industry responded to JFE's and NSSMC's submissions, stating that respondents' failure to respond to the Department's information requests impeded the proceeding, and when the Department has postponed final determinations in the past, there either had been no objection from the petitioners or the petitioners had requested the postponement. Thus, the domestic industry contends that the precedent cited by JFE and NSSMC is not applicable.

On June 2, 2014, NSSMC replied to the domestic industry's May 28 submission, noting that the domestic industry had identified only one instance where a request for postponement was denied.⁵ According to NSSMC, that case was not factually similar because, unlike these investigations, the Department had identified a "record of misleading and contradictory responses."⁶ Furthermore, NSSMC noted that the domestic industry cited no statute, regulation, or precedent indicating that a petitioner's position on a postponement request is relevant.

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Further, 19 CFR 351.210(e)(2) requires that requests by respondents for

⁴ See Welded Stainless Pressure Pipe from Malaysia: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination, 79 FR 808, 809-10 (January 7, 2014) (Stainless Pipe from Malaysia).

⁵ See Preliminary Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From India, 58 FR 41729, 41731 (August 5, 1993) (Steel Wire Rod From India).

⁶ Id.

postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

After considering all submissions on this issue, the Department has determined that additional time is not required to complete these final determinations, given that: (1) no interested parties have submitted case briefs or otherwise commented on our preliminary determinations; (2) the Department will avoid expenditure of further administrative resources by completing the Germany and Japan investigations at the same time as the Poland investigation, in which no exporter requested a postponement of the final determination; (3) the domestic industry, including the petitioners, object to postponing these final determinations, unlike the circumstances in Stainless Pipe from Malaysia; and, (4) section 735(a)(2) of the Act and the Department's regulations at 19 CFR 351.210(e)(1) provide that the Department may postpone a final determination, but do not require us to do so upon request. Therefore, we have exercised our discretion under the Act and are not postponing the final determinations.

Final Determinations

We made no changes to our preliminary determinations in the Germany, Japan, and Poland investigations. Therefore, we continue to determine that the following margins exist for the following entities for the POI:

Germany

Manufacturer/exporter	Dumping Margin (Percent)
ThyssenKrupp Electrical Steel GmbH	241.91
All Others	133.70

Japan

Manufacturer/exporter	Dumping Margin (Percent)
JFE Steel Corporation	172.30
Nippon Steel & Sumitomo Metal Corporation	172.30
All Others	93.36

Poland

Manufacturer/exporter	Dumping Margin (Percent)
Stalprodukt S.A.	99.51
All Others	78.10

Certain Final Affirmative Determination of Critical Circumstances

We made no changes to our critical circumstances analysis for Poland announced in the Preliminary Determinations and described in “Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from Poland,” which is hereby adopted by this notice. Thus, pursuant to 735(a)(3) of the Act, we continue to find that critical circumstances exist with respect to imports of GOES from Poland from Stalprodukt S.A. and the companies covered by the “all others” rate.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of GOES from Germany and Japan as described in the “Scope of the Investigations” section of this notice, which were entered, or withdrawn from warehouse, for consumption on or

after May 12, 2014, the date of publication of the preliminary determinations of those investigations in the Federal Register.

With respect to entries of GOES from Poland, in accordance with section 735(c)(4)(A) of the Act, the Department will instruct CBP to continue to suspend liquidation of all entries from Stalprodukt S.A. and the companies covered by the “all others” rate that were entered, or withdrawn from warehouse, for consumption on or after February 11, 2014, which is ninety days prior to the publication of the preliminary determination of that investigation in the Federal Register.

Further, the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) for the mandatory respondents listed in the table above, the cash deposit rate will be equal to the dumping margin which the Department determined in these final determinations; (2) if the exporter is not a mandatory respondent identified in these investigations, but the producer is, the cash deposit rate will be the rate established for the producer of the subject merchandise; and (3) the cash deposit rates for all other producers or exporters will be 133.70 percent for entries from Germany, 93.36 percent for entries from Japan, and 78.10 percent for entries from Poland. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determinations of sales at LTFV. Because the final determinations in these proceedings are affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of GOES from Germany, Japan,

and Poland no later than 45 days after our final determinations. If the ITC determines that material injury or threat of material injury does not exist for any country, the associated proceeding will be terminated and all securities posted will be refunded. If the ITC determines that such injury does exist for any country, the Department will issue an antidumping duty order for that country directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These determinations and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 16, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix I – Scope of the Investigations

The scope of these investigations covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to these investigations is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (i.e., laminations).

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